

CARLTON FIELDS
MEMORANDUM

To: Parwez Alam, County Administrator
From: Nancy Linnan
Date: February 2, 2004
Re: Purchase of Fallschase by Heritage Development Company

Henree Martin and I represent Heritage Development Company (Heritage) which currently has an option on the Fallschase DRI and some additional 77.5 acres adjacent to it. Closing is currently set for April under the contract and our client seeks informal input from staff and County Commissioners concerning its proposed development.

As a result of the above, we met with you and as many of your staff as possible on January 14 and had a very productive meeting. Additionally, we asked that the item be placed on a Commission agenda as soon as possible thereafter, preferably February 10, 2004. We understand the Board cannot not vote on anything and it is likely that the County Attorney would prefer that Commissioners not comment extensively. Rather, we are simply seeking the kind of input where a board member might say they could not support a particular item or has major concerns with it so we could put together a Chapter 163 Development Agreement for the required public hearings.

General discussion of Heritage's Proposed Development

Heritage proposes a maximum of 1,533 dwelling units (consisting of a mix of single-family units, 544 multi-family units, patio homes, etc.) above the 51' contour line except at two points. That is a maximum number only and may not be achievable. Single-family units will run the gamut from patio homes to 80' lots to large lots closest to the lake. Additionally, there will be up to 670,000 square feet of commercial use consisting of the existing approved commercial, the Mixed Use component of the DRI and relocation of neighborhood commercial from within the DRI. The 670,000 number also represents a conversion of 425,000 square feet of office to commercial.

As discussed, we would retain some vested residential units (no more than 650) below the 51' contour line subject to development pursuant to the current Environmental Management Act solely for purposes of seeking a Florida Communities Trust Grant.

Proposed Process

The addition of 60 acres to the west of Fallschase, the addition of 17.5 acres on Buck Lake Road and relocation of neighborhood commercial will require an amendment to the DRI. Additionally, the 17.5 acres is currently shown on the Comprehensive Plan as being R-3 which does not allow commercial use. This parcel will require a simultaneous comprehensive plan amendment. Because it is part of a DRI, it does not have to go through the twice-a-year schedule. Section 380.06(6), Florida Statutes, provides a procedure for this. Both the DRI change and the comprehensive plan amendment are submitted at the same time and the Board has 30 days to decide to transmit the amendment to the Department of Community Affairs and agencies for comment. It then receives whatever comments are appropriate and takes final action within 60 days following the comments. If it is included to approve the change, it would adopt the comprehensive plan amendment first and then the DRI modification. The DRI modification could not go into effect until the comprehensive plan amendment became effective.

Use of the 17.5 acres will be to spread the approved commercial (and office that has been converted to commercial netting an additional 170,000 square feet of commercial) and, for the 60 acres, simply spreading already approved residential over it.

Heritage has determined that it will, except where noted below, meet the current Comprehensive Plan and Environmental Management Act requirements on the site. Preliminary due diligence has pointed out certain issues that we want to bring to the attention of staff and Commission for comment and consideration before we go forward, however. These are as follows:

Environmental Issues:

1. **Stormwater.** This has been one of the major issues on this project in the past and has caused at least one pending lawsuit. Assuming the County is willing to consider favorably certain issues as set forth herein, Heritage would be willing to meet the current standard of a 1 1/8" treatment.

A portion of the property is in a closed basin area. This property is primarily north of Old Buck Lake Road and south of Mahan Drive. It may require an interbasin transfer.

Finally, while treatment of stormwater will be located above the 51' contour line, all attenuation will be in the lake bottom.

2. **Tributaries.** By reducing the size of the project, reducing units and reconfiguring the project so as to make it more efficient and financially feasible, Heritage is giving up a number of entitlements that were granted pursuant to the original DRI approval and vested from consistency under the comprehensive plan. Accordingly, the ultimate unit count is significant. An important factor that will affect the ultimate unit count on the uplands is setbacks from tributaries to Lake Lafayette. We have determined that to meet those new requirements will be so onerous on the property as to make its development not feasible. Accordingly, we would ask the County to find that project is vested from application of many setbacks from the tributaries to the lake.
3. **Slopes.** The above rationale also applies to slopes and we would need to be vested against regulation of significant slopes. Service slopes (over 20°) will be protected.
4. **Floodplain.** Two small areas consisting of less than 20 lots will be below the 51' contour line. These areas have already been constructed for lots. Houses must meet FEMA standards.

Additionally, while we have no desire to build in the floodplain other than those small areas, we will seek to sell floodplain not utilized for stormwater or open space through the Florida Community Trust Grant Program.

5. **Landscaping.** Again, pending approval of all points, Heritage will apply the current landscaping requirements as contained in the EMA.

There is no DRI open space requirement. The local open space requirement must be able to be wholly or partially met in the floodplain acreage that is not subject to unit vesting.

6. **Buffer.** Again, we have not had sufficient time to determine how many units would be taken out by buffers but want the commitment of the County to work with us so as to not further reduce the number of units due to buffers under the EMA.
7. **Trees.** While the developer will make every attempt to save large trees, this will not be possible in areas of small lots (less than 80' wide). In these instances, such large trees may be cut and will be mitigated for by tree planting.

Infrastructure:

1. **Water and sewer.** The existing treatment plant and infrastructure would be abandoned and removed. Water, sewer and electric would be acquired from the City of Tallahassee. However, what will be important here will be the developer's right to use the existing deep wells for irrigation of the common areas. We will need County support on this issue with the City.
2. **Buck Lake Road.** We are aware of plans to widen Buck Lake Road and understand that we will be asked to donate certain right-of-way in that process. We also understand that there is a discussion ongoing with the present owner of the property about placement and use of a stormwater pond in the DRI. We would like to have more details (how much land, where) on this and could consider a land donation if the County would work with us on siting. The County would operate and maintain the facility. All other stormwater management facilities will be developer- or association-owned and operated.
3. **Weems Road Correction.** Heritage would like to pursue a connection from the project to Weems Road to further distribute traffic to a signalized intersection and keep Weems Road trips to the commercial area off of Highway 90.

Process:

1. A certain portion of the property was found vested in the County Vested Rights Certificate issued October 21, 1991. Accordingly, Heritage would expect that those portions not have to be part of another NFI. However, all other portions would go through the usual process with the total plan shown but the vested portion shown as the NFI requirements not being applicable. The new portions would have to proceed to plat and it is the current intent of Heritage to bond infrastructure. It would initially seek approval of a conceptual site plan for the entire property along with some immediate need for one or two final site plans. We will need simultaneous processing of the comp plan amendment, the NOPC and subdivision approval. Some permits may need to be processed simultaneously.
2. We will require assignment of a high level administrator to expedite and coordinate the County response to 163 Development, the NOPC, 17.5 acre comp plan amendment, PUD modification, platting and permitting.
3. At this point we are talking about additional access to Weems Road and, due to potential changes on Mahan and Buck Lake, need to work with the County and through the County with DOT on appropriate location of median cuts and access

to the property. For instance, it may make sense to locate a median cut and other access to what will be the bulk of the commercial area on Mahan and we will need the County's support for that.

Summary

In sum, we fully understand that nothing has been formally presented to the staff or Commission at this point but are merely seeking whatever input we can get into the Heritage proposed plan of development. We will then include any discussions in the form of a 163 Development Agreement, requiring two public hearings and bring it back before the Board. The purpose of that Development Agreement would be to lay out those portions of the current code which the project would be vested from based on a DRI approved prior to adoption of the Comprehensive Plan. As you can see from the above, given what we could ask for—and others have asked for—we are seeking very little. Additionally, because time becomes critical to us, upon closing, it would set forth a process and some general time frames which we could all expect.

Thank you in advance for your and your staff's cooperation.

cc: John McGill, President
Henree Martin, Developers Realty